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SUBJECT: SAMADUROV EXPECTS GUILTY VERDICT IN "FORBIDDEN ART" TRIAL

REF: 08 MOSCOW 2582

¶1. (SBU) Summary: The trial of former Sakharov Center Director Yuriy Samodurov and former curator of the New Tretyakov Gallery Andrey Yerofeyev has entered its third month of hearings at the Taganskiy district court in the criminal case brought against them for a 2006 modern art exhibit entitled "Forbidden Art." The two are charged under Article 282 of the Russian Criminal Code for an "attempt to incite religious enmity." The exhibit inflamed religious conservatives, and the prosecution plans to call 136 witnesses, while the defense has only two. Although thus far the trial has lacked any procedural violations, many people, including the defendants themselves, see a guilty verdict as a foregone conclusion. Samodurov and his supporters see the case as a key test of freedom of expression in Russia. End Summary.

The Exhibition

¶12. (SBU) The current trial stems from a 2007 modern art exhibition entitled "Forbidden Art" that Samodurov and Yerofeyev organized at the Sakharov Center. It was composed of modern works of art from various artists, many of which depicted images of nudity and, according to some religious conservatives, defacement of famous religious personalities and icons. One of the most striking artistic pieces was a portrait of Jesus and his disciples at the Last Supper in which Jesus' face had been replaced with that of Mickey Mouse. The exhibit ran from March 3 to April 1, 2007 in a small room of the Sakharov Center and was visited by approximately 700 people.

¶13. (SBU) The provocative nature of the exhibit attracted for Samodurov and Yerofeyev more than a few enemies from Moscow's conservative religious community. Groups that spoke out against the exhibition included religious and right-wring political organizations such as "The People's Defense" the "Union of Orthodox Citizens," the "People's Council," and even the "Movement Against Illegal Immigration." In a June 6 article from their web site the "People's Defense" (Narodnaya Zashchita) described in detail the "blasphemous" nature of the exhibit and the necessity of swift punishment for the two exhibition organizers.

The Trial

¶14. (SBU) On May 15, 2008, prosecutors charged Samodurov and Yerofeyev with promoting religious hatred under Article 282 of the Russian Criminal Code (reftel), which carries a five year maximum sentence for "inciting extremist enmity through an official position or as a group." Authorities have argued that Samodurov and Yerofeyev organized and promoted an exhibition that incited religious enmity towards Christianity through official organizations of the New Tretyakov and the

Sakharov Centers, and are thus subject to prosecution to the fullest extent of this law.

¶ 15. (SBU) After the initial hearing on June 5, we observed the trial on June 19 when the defense had the opportunity to cross-examine several of the 136 witnesses lined up by the prosecution. Many of the witnesses called to testify against Samodurov and Yerofeyev had connections with the Russian Orthodox Church (ROC) and religious groups such as "The People's Defense." The prosecution witnesses as a group seemed to be composed of many elderly and devout women and several Orthodox priests. During the course of the cross-examination, the defense attorney showed that several of the witnesses had not even visited the exhibit. In addition, many of those who attended the hearing on June 19 were quite vocal in their personal condemnation of Samodurov and Yerofeyev. Some of the elderly women, Bibles in hand, hissed and crossed themselves when Samodurov cross-examined the first witnesses. The judge gave the defense ample time and opportunity to cross-examine prosecution witnesses and make their case. Both Samodurov and Yerofeyev arrived at the court house on their own and were neither handcuffed or restrained in the metal cages often used for defendants in criminal cases; they were instead allowed to sit with their legal council across from the prosecution.

Samodurov Believes Conviction a Foregone Conclusion

¶ 16. (SBU) In a June 10 meeting, Samodurov told us he held out little hope of getting off without some form of punishment by the state. He believed that his fate was sealed and that the

MOSCOW 00001688 002 OF 002

trial was political, with the decision already made in "high places near the President." Unlike our previous meetings, Samodurov seemed despondent, and no longer held out much hope in contacting Medvedev to appeal his case. When asked whether freedom of speech had increased in Russia under Medvedev, Samodurov said that it was obvious to him that "Putin and Medvedev are both the same. Nothing really has changed." Whereas last year Samodurov felt that the best course of action to avoid prison time would be a letter from Medvedev and appeals from this colleagues Lyudmilla Alekseyeva and Lev Ponomarev, he now believed that the only likely course for him will be a prison sentence, possibly as long as three years. He did hold out some hope that he might get a probationary sentence.

¶ 17. (SBU) According to observers, the Taganskiy regional court in Moscow is not likely to reach a verdict for at least several more months. The vast amount of evidence and the number of witnesses being called to testify against Samodurov and Yerofeyev is a workload and will require time for such a small court to complete. However, based on the "evidence" against the two organizers and the negative mood of the public towards the exhibition, it seems likely that the result will not be in their favor. As Yerofeyev said in a recent interview, the trial is symbolic, a symbol of the "new war of Russian society and power on its culture."

Comment

¶ 18. (SBU) The important issue here is not the trial itself. Samodurov is a controversial figure who has a history of use of provocative artistic displays to make political statements. What is key is the arbitrary use of Article 282 as a means to stifle free speech and dampen opposition to what civil rights advocate Lev Ponomarev calls the "increasing collusion between church and state" and the growing influence of Orthodoxy in Russian politics and society. While Article 282 is clearly intended to dissuade citizens from engaging in or encouraging acts of hatred and violence against other ethnic groups in today's multi-religious and multi-ethnic Russia, this attempt to

charge two controversial figures under the same law used to convict neo-Nazis of hate crimes is a stretch. If the GOR is willing to charge criminally exhibit organizers and museum curators for an exhibition that some people may find offensive, then it might charge other dissenting voices with extremism. We will continue to monitor this case closely.

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